



WILLIAM T FUJIOKA  
Chief Executive Officer

## County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration  
500 West Temple Street, Room 713, Los Angeles, California 90012  
(213) 974-1101  
<http://ceo.lacounty.gov>

July 27, 2010

Board of Supervisors  
GLORIA MOLINA  
First District

MARK RIDLEY-THOMAS  
Second District

ZEV YAROSLAVSKY  
Third District

DON KNABE  
Fourth District

MICHAEL D. ANTONOVICH  
Fifth District

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

### **CONCESSION AGREEMENT EXTENSION GUIDELINES (ALL AFFECTED) (3 VOTES)**

#### **SUBJECT**

The recommended actions would establish parameters and provide directions to County departments for an initiative that would allow extension of concession agreements without competitive bidding, in exchange for additional benefits to the County.

#### **IT IS RECOMMENDED THAT YOUR BOARD:**

1. Approve departmental guidelines and implementation instructions for an initiative to allow for concession agreement extensions without competitive bidding, in exchange for additional benefits to the County.
2. Instruct affected departments to negotiate possible concession contract amendments with eligible concessionaires.
3. Instruct the Chief Executive Officer and County Counsel to review proposed extension amendments and return with individual concession contract extension recommendations to your Board for approval.

#### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

On June 16, 2009, your Board adopted a policy which allowed for the extension of service contracts in exchange for cost reductions by the contractor. This policy has resulted in significant savings to the County. On May 11, 2010, your Board instructed the Chief Executive Officer (CEO) to work with County departments to develop the parameters of a policy which would allow for the extension of concession agreements in return for increased fees paid to the County without competitive bidding. It is anticipated this new initiative may have a similar positive fiscal impact for the County.

*"To Enrich Lives Through Effective And Caring Service"*

**Please Conserve Paper – This Document and Copies are Two-Sided  
Intra-County Correspondence Sent Electronically Only**

On June 10, 2010, we reported to your Board the results of our departmental survey identifying 46 out of 72 concession contracts that could potentially be extended in exchange for increased fees to the County, cash bonuses or capital improvements to County facilities. The recommended actions will provide instructions for County departments to proceed with concession contract negotiations, and determine the feasibility of these contract extensions.

### **Implementation of Strategic Plan Goals**

This initiative supports County Strategic Plan Goal One (Operational Effectiveness), including the Strategy of Fiscal Sustainability. Successful negotiations may offer tangible benefits to the County, including increased revenue.

### **FISCAL IMPACT/FINANCING**

This initiative has the potential for short- and long-term fiscal benefits for the County through additional revenue or capital improvements. Extending the term of these concession contracts will also result in labor cost savings to the County by extending the period before beginning a new solicitation process.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

Due to the long-term nature of some of these agreements, it is difficult to quantify the benefits without providing guidelines and acceptable extension limits. Contractors need to know estimated time frames in order to identify and amortize their potential capital investment. The guidelines below and implementation instructions reflected in the attached provide guidance to departments to consider extensions between two and 20 years and not less than a 10 percent additional benefit to the County for commission-based contracts. Contracts where the department will seek capital improvements in lieu of commission increases will require additional analysis by the department. In these instances, departments will conduct an inventory and assessment of the affected County facility and determine the infrastructure and/or capital improvement needs, which may include but are not limited to:

- ADA compliance (e.g., path of travel, parking, restrooms);
- Health and safety compliance (e.g., electrical, plumbing, structural);
- Regulatory compliance (e.g., water quality, CEQA); and
- Other capital improvements (e.g., restroom and facility upgrades).

Prior to entering into discussions with a contractor, departments will consult with County Counsel to determine if there are any legal restrictions with offering such an extension under each particular contract. Departments will provide an analysis and justification for recommended extensions that will be presented for your Board's approval.

The following are recommended general guidelines to be followed by departments in this initiative:

- This effort applies to contracts which were planned to be competitively rebid upon expiration, but for which a competitive solicitation process is not already underway. It is not limited to contracts expiring in the next year. However, benefits must be implemented in Fiscal Year (FY) 2010-11 and extend throughout the extended period. Amendments will be required to be submitted within 90 days of Board approval of this initiative;
- Extensions between two and 20 years, and not less than a 10 percent additional benefit to the County for commission-based contracts, will be considered. Contracts where the department will seek capital improvements in lieu of commission increases will require additional analysis by the department, as discussed above;
- Living Wage rates may not be reduced as part of this effort and any increases in the Living Wage will be applicable to any option years;
- For contracts with remaining option years, departments may seek to negotiate an extension beyond the last option year, **or** negotiate a benefit in return for executing an option year. In either case, benefits must be effective in FY 2010-11;
- Departments will exclude:
  - Any contracts that cannot legally be extended without a bid process;
  - Any contracts for which the department reasonably determines that a more favorable benefit can be obtained via a competitive process;
  - Contracts where the department has identified performance issues with the current contractor; and/or
  - Contracts where the department is uncertain if the services will be needed for the extended term.
- For amendments providing additional revenue to the County, the effective date of the increased revenue percentage must be no later than the effective date of the first contract amendment(s) approved by your Board under this initiative.

Departments should initiate discussions with the Chief Executive Office regarding those concession contracts falling outside of the above general guidelines, but which departments believe can still yield significant benefits to the County as part of this initiative.

### **IMPACT ON CURRENT SERVICES**

There should be no significant impact to current services as a result of this initiative. However, departments will identify any concerns, and that information will be part of the submittals for your Board's approval.

Each Supervisor  
July 27, 2010  
Page 4

## **CONCLUSION**

This Office will submit recommended extensions for your Board's consideration that will allow for the extension of concession agreements in return for increased fees paid, cash bonuses or capital improvements to the County without competitive bidding. Departments will be required to submit their amendments within 90 days of Board approval of this initiative.

Unless otherwise instructed, we will return to your Board with the recommended concession contract extensions containing the following:

- Background on the subject contract(s);
- Identification of the proposed benefit/extension and the related fiscal impact; and
- A discussion of the analysis and due diligence conducted by the department to justify the recommended amendment(s).

Respectfully submitted,



WILLIAM T FUJIOKA  
Chief Executive Officer

WTF:BC:MKZ  
FC:JH:ib

Attachment  
c: All Department Heads

**DRAFT**

July \_\_, 2010

To: All Department Heads

From: William T Fujioka  
Chief Executive Officer

**CONCESSION AGREEMENT EXTENSIONS**

On July \_\_, 2010, the Board of Supervisors approved the parameters listed below which allow for the extension of concession contracts in return for increased fees and/or capital improvements to County facilities without competitive bidding.

On May 17, 2010, we issued a survey to departments requesting the following information:

- Number of concession agreements;
- Name of the contract(s) and contractor(s);
- Location and a brief description of the contracted service;
- Current contract start date, termination date, and any option terms;
- Description of the potential benefits the contractor(s) may offer and potential extension periods;
- Whether the contract(s) provide products covered by Board Policy 3.115 (Los Angeles County Food Policy for Vending Machines, Fundraising, and County-sponsored meetings); and
- Any concerns or special circumstances.

Please use the attached model letter (Exhibit A) to comply with this directive. Exhibit B is for reporting back to this Office those contracts that your department will be recommending for extension.

### **Criteria for Determining Contracts Covered by This Effort**

As communicated previously, due to the long contract terms and unique nature of some of these contracts, providing parameters that can be applied universally is difficult. Contractors require flexibility to determine various time frames in order to identify and amortize their potential capital investment and/or adjustments to revenue streams. Likewise, departments must consider the long term implications of extending agreements far into the future. As such, please consider the following general guidelines:

- This effort applies to contracts which were planned to be competitively rebid upon expiration, but for which a competitive solicitation process is not already underway. It is not limited to contracts expiring in the next year. However, benefits must be implemented in Fiscal Year (FY) 2010-11 and extend throughout the extended period. Amendments will be required to be submitted within 90 days of Board approval of this initiative;
- Extensions between two and 20 years, and not less than a 10 percent additional benefit to the County for commission-based contracts, will be considered. Contracts where the department will seek capital improvements in lieu of commission increases will require additional analysis by the department, as discussed above;
- Living Wage rates may not be reduced as part of this effort and any increases in the Living Wage will be applicable to any option years;
- For contracts with remaining option years, departments may seek to negotiate an extension beyond the last option year, **or** negotiate a benefit in return for executing an option year. In either case, benefits must be effective in FY 2010-11;
- Departments will exclude:
  - Any contracts that cannot legally be extended without a bid process;
  - Any contracts for which the department reasonably determines that a more favorable benefit can be obtained via a competitive process;
  - Contracts where the department has identified performance issues with the current contractor; and/or
  - Contracts where the department is uncertain if the services will be needed for the extended term.
- For amendments providing additional revenue to the County, the effective date of the increased revenue percentage must be no later than the effective date of the first contract amendment(s) approved by the Board under this initiative.

Departments should initiate discussions with this Office those concession contracts falling outside of the above general guidelines, but where departments believe can still yield significant benefits to the County, as part of this initiative.

**Immediately:**

- Assign a team to handle this special project.
- Issue letters to affected concessionaires and work with them to quickly determine possible benefits and acceptable extensions terms.

**By August 27, 2010:**

Report back to this Office using the attached format, those contracts your department proposes be extended and the projected increased revenue or capital improvement under this initiative. Direct your responses to your CEO budget analyst, with a copy to **James Hazlett** at [jhazlett@ceo.lacounty.gov](mailto:jhazlett@ceo.lacounty.gov). This Office will review the proposed contract benefit(s)/extension(s), and determine if they will be included in Supplemental Changes.

**September 2010:**

This Office will include projected increased revenue resulting from recommended contract extensions consistent with recommendations for Supplemental Changes to the FY 2010-11 County Budget (currently targeted for late September 2010).

Departments will work with County Counsel and contractors on contract extension language. Actual contract extensions will be forwarded for Board approval on a flow basis to allow sufficient time for Board and public review.

The August 27, 2010 deadline is critical to allow results to be included in Supplemental budget recommendations, and departments are strongly encouraged to undertake this effort as quickly as possible and submit your results in advance of the deadline.

Thank you in advance for your immediate attention to this effort.

WTF:BC:MKZ

FC:JH:

Exhibits

## MODEL LETTER TO CONTRACTORS REGARDING CONCESSION CONTRACT EXTENSIONS

Date

Contractor Executive's Name

Business Name

Street Address

City, State Zip Code

### LOS ANGELES COUNTY CONCESSION CONTRACT EXTENSION

Dear [contractor executive's name]:

The County of Los Angeles is facing significant budget challenges in the coming fiscal years. We are pursuing a host of options to enable the County to continue providing its most critical services during these difficult times. As part of this effort, on July \_\_, 2010, the County Board of Supervisors instructed the County's Chief Executive Officer (CEO) to authorize County departments to enter into negotiations to determine the possibility of extending current concession contracts without competitive bidding, in return for increased fees paid to the County and/or capital improvements to County-owned facilities. The additional benefits to the County would need to be effective in Fiscal Year 2010-11.

Your current contract(s) with the Department of [department name], [name of contract(s)], will expire on [date]. If you are willing to offer an increase in County revenue or capital improvements, please send us your proposal by the deadline indicated below. The County will review your proposal and, if we determine that it is a significant increase or improvement, we will offer to negotiate a potential extension of this contract.

We must report back to the CEO on those contracts which we recommend be extended under this program **by August \_\_, 2010**. Therefore, please respond to [department contact name] of this Department by [date] at [department contact telephone number and e-mail address], indicating the percentage increase, lump sum or capital improvement you would offer and the extension term(s). Questions can also be directed to Mr./Ms. [department contact name]. If the CEO approves your proposal, we will prepare a contract extension for approval by the County Board of Supervisors.

Thank you for your prompt attention to this important matter. We look forward to hearing from you soon.

Sincerely,

Department Head Name

Title

Attachment



## CONCESSION CONTRACT EXTENSION RESPONSE

COMPANY NAME: \_\_\_\_\_

COMPANY  
HEADQUARTERS  
ADDRESS: \_\_\_\_\_

CONTRACT NUMBER: \_\_\_\_\_

CONTACT NAME: \_\_\_\_\_

CONTACT NUMBER: \_\_\_\_\_

***Please Check One:***

☐ YES, for the above referenced agreement we offer to the County of Los Angeles the following:

☐ Rate increase of \_\_\_\_\_

☐ Cash sum of \_\_\_\_\_

☐ Capital improvement of \_\_\_\_\_

☐ Other \_\_\_\_\_

(attach additional sheets if necessary)

In exchange for a contract extension of \_\_\_\_\_ years.

Note: Any proposed benefit/extension is subject to review and approval by the Board of Supervisors. Should the County wish to negotiate your proposed extension, you will receive a written notice from the County.

☐ NO, we do not intend to offer the County of Los Angeles a percentage increase, lump sum or capital improvement for the above-referenced agreement

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
PHONE NO.

\_\_\_\_\_  
E-MAIL ADDRESS

# CONCESSION AGREEMENT EXTENSION PROJECT

Department Name:  
Department Contact Name:  
Department Contact Number/e-mail address: